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**DEPT. OF COMMUNITY & REGIONAL AFFAIRS**

OFFICE OF THE COMMISSIONER

POUCH B  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-4700

April 29, 1983

POSITION PAPER

RE: SB 260

SPONSOR: Senate Community & Regional Affairs

Program Effects of Bill:

Theoretically, there should be no program effects from the passage of this legislation. Since this bill is simply a clarification of 43 U.S.C. 1601,1620(d), any impact felt would necessarily be the result of the original federal language.

History:

In December 1971, Congress adopted the Alaska Native Claims Settlement Act (ANCSA). In December of 1980, the Alaska National Interest Lands Conservation Act (ANILCA) was passed into federal law amending certain sections of ANCSA.

Section 21(d) of the amended act provided for a property tax moratorium on ANCSA lands for a period of twenty years, subject to certain provisions within the act. That section reads as follows:

TAX MORATORIUM EXTENSION

Sec. 904. Subsection (d) of Section 21 of the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, 1620(d)), is amended to read:

"(d)(1) Real property interests conveyed, pursuant to this Act, to a Native individual, Native Group, Village or Regional Corporation or corporation established pursuant to section 14 (h)(3) which are not developed or leased to third parties or which are used solely for the purposes of exploration shall be exempt from State and local real property taxes for a period of twenty years from the vesting of title pursuant to the Alaska National Interest Lands Conservation Act or the date of issuance of an interim conveyance or patent, whichever is earlier, of those interests to such individual, group, or corporation: Provided, That municipal taxes, local real property taxes, or local assessments may be imposed upon any portion of such interest within the jurisdiction of any governmental unit under the laws of the State which

is leased or developed for purposes other than exploration for so long as such portion is leased or being developed: Provided further, That easements, rights-of-way, leaseholds, and similar interests in such real property may be taxed in accordance with State or local law. All rents, royalties, profits, and other revenues or proceeds derived from such property interest shall be taxable to the same extent as such revenues and proceed are taxable when received by a non-Native individual or corporation.

"(2) Any real property interest, not developed or leased to third parties, acquired by a Native individual, Native Group, Village or Regional Corporation, or corporation established pursuant to section 14(h)(3) in exchange for real property interests which are exempt from taxation pursuant to paragraph (1) of this subsection shall be deemed to be a property interest conveyed pursuant to this Act and shall be exempt from taxation as if conveyed pursuant to this Act, when such an exchange is made with the Federal Government, the State government, a municipal government, or another Native Corporation, or, if neither party to the exchange receives a cash value greater than 25 per centum of the value of the land exchanged, a private party. In the event that a Native Corporation simultaneously exchanges two or more tracts of land having different periods of tax exemption pursuant to subsection (d), the periods of tax exemption for the exchanged lands received by such Native Corporation shall be determined (A) by calculating the percentage that the acreage of each tract given up bears to the total acreage given up, and (B) by applying such percentages and the related periods of tax exemption to the acreage received in exchange."

A conspicuous lack of definitions for key terms along with certain ambiguities in Sec. 21(d) have caused some interpretation problems for parties impacted by the legislation. ANCSA Corporations have complained of unequal treatment from one taxing jurisdiction to the next, and local assessors have voiced their frustration in attempting to interpret and apply the language. The situation is further complicated by the fact that there is almost no legislative history available for guidance on that section.

Comments:

The language in SB 260 is intended to provide some clarification of the section and to furnish a means for the proper implementation of the moratorium. It has been drafted in an effort to more closely define those terms which have caused problems or created concerns, and in an attempt to provide some equity of application of Sec. 21 (d) statewide.

The Department is in full support of the adoption of language which would accomplish those goals. Unfortunately, the language in the bill has not been completely satisfactory to parties on either side of the issue.

We have been informed by the Alaska Association of Assessing Officers that, at the present time, meetings on this subject between their association and ANCSA community are ongoing. They also informed us that they have reason to be optimistic on the two groups reaching an agreement on language which would resolve their differences on SB 260.

Considering these recent developments, the Department believes it premature to voice concerns or assume an official position at this time. If the Committee desires departmental commentary on any revised language the two groups might develop, we would be pleased to respond.

  
\_\_\_\_\_  
Mark Lewis, Commissioner

STATE OF ALASKA  
FISCAL NOTE

Revision Date , 1983

I. REQUEST

Bill/Resolution No.: SB 260  
Title: Exemption from Municipal Prop. Tax  
Sponsor: Senate Comm. and Regional Affairs  
Requestor: Senate Comm. and Regional Affairs

II. FISCAL DETAIL Department of Community  
Agency Affected: and Regional Affairs  
Program Category Affected: Development  
BRU, Program of Subprogram(s) Affected:  
Local Government Assistance Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

III. SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

IV. ANALYSIS: Attach a separate page for any Analysis

Prepared By: Richard Rainery  
Division: Commissioner's Office

Phone: 465-4703

Date: 5/2/83

Approved by Commissioner: *Robert K. Heikel*  
Department: Department of Community and Regional Affairs

Date: 5/2/83

Distribution:

Original to Legislative Finance  
Copy to Office of Management and Budget (for Legislature introduced bills)  
Copy to Department (for Governor introduced bills)  
Copy to Sponsor  
Copy to Requestor (if different from Sponsor)

3/8/83

ALASKA ASSOCIATION OF ASSESSING OFFICERS

SENATE BILL NO. 260 (proposed substitute)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to exemption from municipal property

taxation of certain property exempt from taxation from federal law; and providing for effective date."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\*Section 1. AS 29.53.020(a) is amended by adding a new paragraph to read:

(9) real property or an interest in real property that is exempt from taxation under 43 U.S.C. 1620(d), as amended.

\*Sec. 2. AS 20.53.020 is amended by adding new subsections to read:

(k) For the purpose of determining property exempt under (a)(9) of this section, the following definitions apply to terms used in 43 U.S.C. 1620(d) unless superseded by applicable federal law:

(1) "developed" means a purposeful modification of the property from its original state that affectuates a condition of productive present use or makes the property marketable for use or development in accordance with local ordinances and state statutes without further subdivision or substantial modification. Developed property, in order to remove the exemption, must be developed for purposes other than exploration and be limited to the smallest practicable tract of the property actually used in the developed state;

(2) "exploration" means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources;

(3) "lease" means a grant of primary possession entered into for gainful purposes with a determinable fee remaining in the hands of the grantor; with respect to a lease that conveys rights of exploration and development, this exemption shall continue with respect to the portion of the leased tract that is used solely for the purpose of exploration.

(4) If property or an interest in property that is determined not to be exempt under (a)(9) of this section reverts to an undeveloped state, or if the lease is terminated, the exemption shall be granted, subject to the provisions of (a)(9) and (k) of this section

\*Sec. 3. AS 209.53.060 is amended by adding a new subsection (c) reading

(c) The assessment of property which has lost its exempt status under 43 U.S.C. 1620(d) because it is developed or leased shall be based on the full and true value of the improvements to the property and of so much of the property and/or natural resource as is used or useful in connection with the improvements.

\*Sec. [3]4. This Act takes effect January 1, 1984

## NOTE OF INTENTION

Attached is a proposed substitute for Senate Bill 260, which is an act relating to the exemption from municipal property taxation of certain property exempt from taxation under federal law; and providing for an effective date.

The proposal was drafted at a quarterly meeting of the Alaska Association of Assessing Officers held in Soldotna on May 23 and 24, 1983.

It was the opinion of the assessing officers that the original Senate Bill 260 was unfair, as it related to other persons in the State of Alaska who are involved in the subdividing and developing of property. The original bill allowed Native organizations to completely develop a subdivision, including survey, roads and utilities, and still not be obligated to pay local taxes until such time as the property was sold. We realized that it was probably the intent of the federal government in passing the Native Land Claim Settlement Act to allow a moratorium on local taxes so that the Native organizations could get their feet on the ground and not forfeit their property to taxes in the early years. We felt the original Senate Bill 260 allowed the corporations not only to get their feet on the ground, but to remain in a tax exempt status virtually in perpetuity, as far as purposeful modifications to their property are concerned.

Our proposed bill would allow a future subdivision in the state of being developed a tax exemption, but as such time as the subdivision is completed in conformance with the subdivision agreement, it would become taxable. This, in essence, gives the Native organizations developing subdivisions or natural resources a tax free period of time during the development process, but once the development criteria has been met it places the property on the tax roll of local taxing jurisdictions.

The proposal also provides in section 2(k)(1) for the taxation of only a small portion of a a larger tract, if only that portion has been developed. It eliminates taxation as does the original Senate Bill 260 of land being used for exploration. It allows, as did the original bill, for property that has been leased to be taxed, but deletes this property from the tax roll should the lease be terminated. If the lease is terminated, and due to the lease, a portion of the property was developed, that portion would remain taxable to the Native corporation.

Our proposed bill would bestow an additional benefit on the Native corporations over what most of them have at the present time. Most of the assessing jurisdictions within the State begin to assess the property at the time it is surveyed, and continue through the development stage. As mentioned above, the proposed bill by our association would allow the development to take place prior to beginning the assessment procedures.

Should you have any questions concerning our position, please contact the undersigned.

Glenn M. "Pat" McKee, CRA *264-6595*  
Chairman, Legislative Committee  
Alaska Association of Assessing Officers  
Pouch 6-650  
Anchorage, Alaska 99502

SB 258 (cont'd)

company. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced April 15 and referred to Labor & Commerce.

Bd. of  
Fisheries  
(membership)

SENATE BILL NO. 259, by Senator V. Fischer. Would require that at least two of the members of Board of Fisheries represent the interest of sportfishers. Amends AS 16.05.221. Does not provide for an effective date (becomes law 90 days after Governor's signature).

Introduced April 15 and referred to Resources.

Native-Owned  
Lands  
(munic. property tax exemption)

SENATE BILL NO. 260, by the Community & Regional Affairs Committee. Defines "developed" for purposes the current tax exemption granted under federal law for Native-owned land acquired under the Native Claims Settlement Act (ANCSA) or the Alaska National Interest Lands Conservation Act (ANILCA). Under the federal laws, Native-owned land is exempt from state or municipal taxation unless it is developed or leased. However, the terms are not defined.

Amends AS 29.52.020 (exemptions from municipal property taxation) so that it specifically exempts Native land under the terms of the federal legislation and adds new subsection (k):

"For the purpose of determining property exempt under (a)(9) of this section, the following definitions apply to terms used in 43 U.S.C. 1620(d) [of the ANCSA] unless superseded by applicable federal law:

"(1) 'developed' means a purposeful modification of the property from its original state that effectuates a condition of gainful or productive present use without further substantial modification; surveying, construction of roads, providing utilities or other similar actions normally considered to be component parts of the development process, but which do not create the condition described in this paragraph, do not constitute a developed state within the meaning of this paragraph; developed property, in order to remove the exemption, must be developed for purposes other than exploration, and be limited to the smallest practicable tract of the property actually used in the developed state;

"(2) 'exploration' means the examination and investigation of undeveloped land to determine the existence of subsurface nonrenewable resources;

"(3) 'lease' means a grant of primary possession entered into for gainful purposes with a determinable fee remaining in the hands of the grantor; with respect to a lease that conveys rights of exploration and development, this exemption shall continue with respect to that portion of the leased tract that is used solely for the purpose of exploration."

INTRODUCTION OF BILLS (Senate)(cont'd)

SB 260 (cont'd)

Provides that if property or an interest in property that is determined not to be exempt under the new definitions reverts to an undeveloped state, or if the lease is terminated, the exemption shall be granted.

Provides Act takes effect January 1, 1984.

Introduced April 15 and referred to Community & Regional Affairs and Finance.

INTRODUCTION OF RESOLUTIONS (Senate)

Natural Gas  
Deregulation  
(Alaska exemp-  
tion)

SENATE JOINT RESOLUTION NO. 24, by the Resources Committee. Requests Congress to exempt Alaska from any federal legislation allowing cancellation of existing natural gas contracts. Urges the Alaska delegation to actively support such an exemption from Sec. 316 of S615 or similar legislation.

S 615 is the proposed federal "Natural Gas Consumer Regulatory Reform Amendments of 1983" and it seeks to deregulate natural gas. The resolution suggests that such action would have a disastrous effect on many Alaskans who are dependent on electric energy generated from low-cost natural gas under existing, long-term contracts. The price increases brought about by deregulation and subsequent abrogation of existing contracts could, SJR 24 asserts, "have devastating impacts on the utility rates of most Alaska consumers already faced with high living costs."

Introduced April 12 and referred to Resources and Finance.

Knik Arm  
Crossing  
(project to  
start by 1984)

SENATE CONCURRENT RESOLUTION NO. 15, by Senator Ferguson. Requests the Governor to direct the Commissioner of Transportation and Public Facilities, the Commissioner of the Department of Revenue, and the Director of the Municipal Bond Bank to take all necessary action to commence construction of the Knik Arm Crossing by 1984. Financing for construction would be from revenue bonds issued through the Municipal Bond Bank Authority and the revenue bonds would be satisfied by the use of toll charges for the vehicles using the crossing.

Introduced April 11 and referred to Transportation, Finance.

Middle Turn  
Lanes  
(construc. &  
use of)

SENATE CONCURRENT RESOLUTION NO. 16, by Senator V. Fischer. Requests the Governor to instruct the Dept. of Transportation & Public Facilities "to construct middle turning lanes only in areas where no other alternative is available, in a manner that precludes illegal use by designs that limit the traffic flow to appropriate lanes and mark them with traffic signaling devices that

OTHER ACTION IN THE SENATE

Physical Sciences Endowment  
(U of A/Fbks.)      SENATE BILL NO. 93, (see pages 107;451). On May 5, at the request of Sen. Bennett, the Finance referral was waived. To Rules.

Minors  
(unlawful conduct)      CS FOR SENATE BILL NO. 127 (JUDICIARY), (see page 168;682, this report). On May 6 the Judiciary substitute was adopted (see page 682), and the bill was then sent to the Finance Committee, at the request of Senator Sackett.

Attorney Fees  
(payment by municipalities)      SENATE BILL NO. 255, (see page 502). On May 3, at the request of Sen. Ferguson, the Community & Regional Affairs referral was waived. To Judiciary.

Native-Owned Lands  
(prop. tax exemption)      SENATE BILL NO. 260, (see page 503). On May 3, at the request of Senator Ferguson, the Community & Regional Affairs referral was waived. To Finance.

Cook Inlet Royalty Oil  
(sale to Tesoro)      SENATE BILL NO. 285, (see page 620). On May 2, at the request of Sen. Ferguson, the bill was given an additional referral to Community & Regional Affairs. To Resources, C&RA and Finance.

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ERRATA

State Land  
(discount program)      SENATE BILL NO. 280, (see page 615). In the report of May 2, the bill was incorrectly reported. The land discount program was eliminated based on the advice of the Attorney General following the state Supreme Court decision of Gilman v. Martin. That case involved a similar land discount program in the Kenai Borough. The court ruled against that program, and the Attorney General felt a similar discount for state land could not be legally used for the disposal of state land.

SB 120 (cont'd)

conservation the power to "(7) accept contributions in money, services, materials, or equipment from the United States or its agencies, from an agency of the state, and from any other source, for use in carrying out the purposes of this chapter."

Lobbying  
(public officials & employees)

SENATE BILL NO. 137, (see pages 194;460;566). Reported back to the Senate on May 17 by Finance with the committee recommending it be replaced with a Finance CS and a majority recommending it do pass. concurring: Bennett (Co-Chairman), Sackett, Mulcahy and Faiks. Josephson and Vic Fischer signed "no recommendation." To Rules.

The Finance CS expands the bill to require executive and legislative branch officers or employees who engage in lobbying to comply with the Regulation of Lobbying Act. The original bill would have applied only to officers or employees of the judicial branch, the University of Alaska, a municipality or a school district. The new law only applies if a substantial or regular portion of the activities for which the officer or employee receives compensation is for the purpose of influencing legislative action.

Grain Reserve Loan Program

SENATE BILL NO. 169, (see pages 273;511). Reported back to the Senate on May 17 by Finance with the committee recommending the Resources CS (p. 511) be adopted and a majority do pass. Concurring: Bennett (Co-Chairman), Mulcahy, Josephson and Sackett. Faiks signed "do not pass." Vic Fischer and Ferguson signed "no recommendation." To Rules.

Local Hire  
(state & municipal contracts)

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 174, (see pages 274;613;685). Reported back to the Senate on May 19 by Finance recommending that it do pass. Concurring: Bennett, Co-Chairman, Mulcahy, Josephson, V. Fischer, Ferguson and Sackett. Senator Faiks signed "no recommendation." To Rules.

Native-Owned Lands  
(property tax exemption)

SENATE BILL NO. 260, (see pages 503;692). Reported back to the Senate on May 17 by Finance with a majority recommending it do pass. Concurring: Bennett (Co-Chmn.), Josephson, Mulcahy, Vic Fischer, Ferguson and Sackett. Faiks signed "no recommendation, may need technical amendments." To Rules.

Cards, Dice & Number Wheels  
(permits for)

SENATE BILL NO. 265, (see pages 557;636). Reported back to the Senate on May 19 by Finance with the committee recommending the State Affairs Committee Substitute be adopted and that it do pass. Concurring: Bennett, Co-Chairman, Ferguson, Josephson, Mulcahy, Faiks, V. Fischer and Sackett. To Rules.

Prudhoe Bay Royalty Oil  
(sale to Tesoro)

SENATE BILL NO. 268, (see pages 558;641). Reported back to the Senate on May 19 by Resources recommending it do pass. Concurring: Fahrenkamp, Chairman, Sturgulewski, V. Fischer, Ziegler, and P. Fischer. Senator Mulcahy signed "no recommendation." To Community & Regional Affairs.

CSSB 255 (Rls) (cont'd)

A RESOLUTION OF THE ANCHORAGE ASSEMBLY URGING ALL MEMBERS OF THE LEGISLATURE TO REJECT THE PROVISIONS OF CSSB 255.

WHEREAS, in response to the needs of Anchorage residents for a higher level of public safety and in reliance on the Legislature's 1976 approval of a measure which apportioned court costs, including the costs of defending indigent offenders to be borne by the State of Alaska, the Municipality has undertaken to expand its police service areas, increase the effectiveness of its traffic and penal codes, and enlarge its police and prosecution staffs; and

WHEREAS, this endeavor has relieved various state agencies such as the Alaska State Troopers and the Anchorage office of the District Attorney, from responsibilities that would otherwise require significantly increased state funding; and

WHEREAS, in various areas, particularly those relating to alcohol and driving, Anchorage has led the way for the state and for other localities toward more effective and aggressive laws, law enforcement and prosecutions; and

WHEREAS, the cost of the increased level of public safety has been borne primarily by local property taxpayers; and

WHEREAS, the Assembly finds that the shifting of the burden of court costs contemplated in CSSB 255 would result either in a significant decrease in local public safety effort or an increase in mill rates borne by local property owners; and

WHEREAS, CSSB 255 would act to deter aggressive law enforcement and prosecution in areas where public safety is primarily provided by local government and would in other areas act to deter the assumption of such functions by local agencies.

NOW, THEREFORE, the Anchorage Assembly resolves that:

CSSB 255 is a measure which in effect is anti-local government and one that will deter aggressive law enforcement by local agencies. It is, therefore, respectfully urged that members of the legislature vote against the measure.

Passed and approved by the Anchorage Municipal Assembly this 24th day of May, 1983.

Paul Baer  
Assembly Chairman

Jane Ferguson  
Assembly Clerk

Native-Owned Lands  
(property tax exemption)

SENATE BILL NO. 260, (see pages 503;692;793;857). Passed the Senate May 24, 12-6-1-1. Nays: Faiks, P. Fischer, Halford, Pettyjohn, Ray, Rodey. Excused: Sturgulewski. Absent: Fahrenkamp. The effective date clause was adopted. Senator Ray gave notice of reconsideration, but it was not taken up and the bill was referred to the House for its consideration.

Cards, Dice & Number Wheels  
(permits for)

CS FOR SENATE BILL NO. 265 (STATE AFFAIRS), (see pages 557;636;793;857). On May 25 the State Affairs substitute was adopted and the bill passed the Senate, 19-1. Nay: Kelly. Senator Kerttula changed his vote from "nay" to "yea".

State Retirement System  
(fireman/peace officer status)

CS FOR SS FOR SENATE BILL NO. 277 (L&C)(AMENDED), (see pages 614;738;794;857). Reported back to the Senate May 23 by Rules recommending the Labor & Commerce substitute be adopted with a Rules Committee amendment. The report was signed by Senator Faiks, Chairman, and concurred in by Senators Bennett, Ray and

SENATE BILLS RECEIVED IN THE HOUSE

<u>Alaska Statutes</u> (corrective amendments)	<u>CS FOR SENATE BILL NO. 133 (JUDICIARY)(AMENDED)</u> , (see pages 193;231;684;803;845). Received in the House on May 24 and referred to Judiciary.
<u>Local Hire</u> (state & munic. contracts)	<u>SPONSOR SUBSTITUTE FOR SENATE BILL NO. 174</u> (see pages 274; 613;685;793;845). Received in the House on May 26 and referred to Labor & Commerce and Finance. On May 27 the Speaker added a State Affairs referral. To Labor & Commerce, State Affairs, then Finance.
<u>Attorney Fees</u> (payment by munic.)	<u>CS FOR SENATE BILL NO. 255 (RULES)</u> , (see pages 502;692;734; 845). Received in the House on May 26 and referred to State Affairs, Judiciary and Finance.
<u>Native-Owned Lands</u> (property tax exemption)	<u>SENATE BILL NO. 260</u> , (see pages 503;692;793;849). Received in the House on May 26 and referred to Community & Regional Affairs and Finance.
<u>Cards, Dice &amp; Number Wheels</u> (permits for)	<u>CS FOR SENATE BILL NO. 265 (STATE AFFAIRS)</u> , (see pages 557; 636;793;849). Received in the House on May 26 and referred to Finance. On May 27 the Speaker added a State Affairs referral. Taken from Finance and sent to State Affairs, then to Finance.
<u>State Retirement System</u> (fireman/peace officer stat.)	<u>CS FOR SS FOR SENATE BILL NO. 277 (L&amp;C)(AMENDED)</u> , (see pages 614;738;794;849). Received in the House on May 24 with Senate Letter of Intent (see page 794) and referred to Finance.
<u>Export Admin. Act</u> (opposing extension of)	<u>CS FOR SENATE JOINT RESOLUTION NO. 12 (RULES)</u> , (see pages 84;638;795;850). Received in the House on May 24 and referred to Resources and Judiciary.
<u>Legislative Ethics</u> (preamble-- Unif. Rules)	<u>CS FOR SENATE CONCURRENT RESOLUTION NO. 21 (RULES)(AMENDED)</u> , (see pages 621;850). Received in the House on May 25 and referred to Judiciary.

COMMITTEE REPORTS (House)

<u>Business Inventory Exemption</u> (municipal)	<u>SENATE BILL NO. 53</u> , (see pages 19;207;364;458;538;754). Reported back to the House on May 25 by Finance with the committee recommending it do pass. The committee endorsed the Senate letter of intent and the House Community & Regional Affairs letter of intent. Concurring: Adams (Chairman), Pestinger, Duncan, Ward, Zharoff, Grussendorf and Martin. To Rules.
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CALENDAR

SENATE BILL 260

An Act relating to exemption from municipal property taxation of certain property exempt from taxation under federal law

PASSED Senate May 24, 1983, 12-6-2

NAYS: Faiks, Fischer Paul, Halford, Pettyjohn,  
Ray, Rodey

EXCUSED: Sturgulewski

ABSENT: Fahrenkamp

(REF: Page 1097, Senate Journal)

4935 -

759-3333  
Terry  
Wiley

Section

"developed"

See  
map

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Amend -

gainful and  
productive

use (reg. to

be producing

net income) not  
intent of 6.76

re: SB 260

Barb,

There is no

AK. Municipal League  
letter in the

Staff or Committee  
member's files on

HB 172 re: Amend.

#8 which proposes  
to clarify the  
definition of "developed"  
in the bill. This  
amendment was

- 2 -

proposed by Lee  
Sharp & Cape Fox  
Corporation. Genny  
requested the  
Committee hold  
off until the  
assessors had a  
Chance to address  
the amendment. It  
was so moved. ]

Suspect Genny  
was waiting to route  
one until these other

- 3 -

positions Statements  
Come in.

Attached are  
Copies of all  
Of the info. in  
relation to this  
Amendment that  
is in the file on  
HB 172. You  
have in your  
packet an assessors  
Statement that  
I request.

-4-

you yesterday  
afternoon. That  
is the only copy  
of that position.  
It is the document  
with no letterhead.

Sarah

P.S. - 2 copies

Attached -

1 for Clocksen too.

266  
5/15/55

CEICHA Km 207  
SB 260  
Terry Urley  
State assessor  
4783  
Ferg  
parted through

not w/  
intent of  
Federal law

Assessor's Ass of  
Native Corp.

Anch. munic. - (Part) McKee  
will bring suit  
Leg. does not have  
Authority to  
interfere fed law

Anch  
Assessor

Forest land staff  
last yr.  
veted by Gov.  
Cape Fox  
Corp.

# Alaska State Legislature



Barbara Lacher, Chairman  
Mae Tischer, Vice-Chairman  
Randy Phillips  
Milo Fritz  
Don Clocksin  
Jack McBride  
Mike Szymanski

Room 104  
State Capitol  
Juneau, Alaska 99811  
  
Pouch V  
Juneau, Alaska 99811

## House of Representatives Committee on Community & Regional Affairs

TO: Committee on Community and Regional Affairs  
FROM: Staff  
DATE: April 25, 1983  
RE: House Bill 172 amendment 8

Sec. 29.45.030 dealing with required tax exemptions contains new language that defines "developed" for the implementation of a required federal tax exemption (Page 105, line 10). The new definitions are supported by Alaska Native Corporations and are opposed by municipalities. Similar definitions were added as last minute floor amendments during legislative action on the municipal code revision in 1982 which were, in large part, responsible for the subsequent Governor's veto.

In that the purpose of HB 172 is to administratively revise Title 29 into a usable document and not to make substantive or controversial changes, staff recommends that all new materials pertaining to the federal tax exemption, including references to reverting to an undeveloped state, be deleted from HB 172 and that the issue be addressed in separate legislation. *Delete materials line 10 page 105*

*To Line 7, page 106*

THIRTEENTH ALASKA LEGISLATURE

FIRST SESSION

copy of bill  
in portfolio  
77-10-100

HB172 Suggested Amendments - Cape Fox Corporation

Line 15, Page 105

- ① (m) (1) ... gainful and [or] productive present use...

Line 18-19, Page 105

- ② (m) (1) ... process even though income may be derived from related incidental timber harvesting, utility usage, or similar activities.

Line 3, Page 106 - Add New Subsection:

- ③ (m) (4) "Gainful" means a condition resulting in net taxable income or when revenue derived from an activity taking place over the tax year of the property owner exceeds the expenses and deductions related to the activity.



# Matanuska-Susitna Borough

BOX B, PALMER, ALASKA 99645 • PHONE 745-4801

BOROUGH ATTORNEY'S OFFICE

April 6, 1983

The Honorable Barbara Lacher  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Dear Barbara:

Subject: HB 172 "DEVELOPED" DEFINITION

The present version of HB 172 provides for a tax exemption as required by 43 U.S.C. 16.20(d) for certain Native lands. This exemption provides a definition of "developed" for implementing the federal law. I recommend that this matter be treated in a separate bill rather than in HB 172 or SB 1, the parallel bills intended as housekeeping measures to revamp Title 29.

During the last legislative session certain amendments were made to the Title 29 bill on the House floor which caused a great deal of controversy. In re-introducing the Title 29 in the present legislature, all of these amendments were removed except for the provisions for implementing the tax exemptions under 43 U.S.C. 16.20(d). This amendment was incorporated in AS 29.45.030 of the bill.

Pursuant to federal law, certain Native lands are not taxable until "developed". The intent of the proposed definition in AS 29.45.030 is to clarify what improvements of land will constitute "development" for tax exemption status.

I believe that the intent of this section is to assure that lands will not be taxed simply because an access road is constructed to the property or improvements are placed on the property in anticipation of future development. However, the language is sufficiently ambiguous to permit the interpretation that even a regular, residential or commercial subdivision development would not be taxable until the lots were sold. Once land is subdivided, roads are constructed and other improvements are put in place, the available lots become the sale inventory of the real estate developer. An exemption from taxation of these lots would give the exempted developer an unfair advantage over other developers with which it was in competition.

Because this provision is not in existing Title 29 and because there is potential controversy involved, I recommend that

it not be included in HB 172, a housekeeping bill. As a separate bill, I believe that the Borough would support a definition between a taxable subdivision development and tax exempt lards which have been surveyed and have constructed roads.

Sincerely,



Steven H. Morrisett  
Borough Attorney

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cc: Steve VanSant, Borough Assessor



# KENAI PENINSULA BOROUGH

BOX 850 • SOLDOTNA, ALASKA 99669  
PHONE 262-4441

STAN THOMPSON  
MAYOR

February 24, 1983

TO: Stan Thompson, Mayor

FROM: Don Thomas, Assessor

SUBJECT: Native Lands, Title 29 Revisions - sec M #1 *lines 28 + 29*  
*140 100-101*

By the definition included in the work draft of Title 29 the Kenai Peninsula Borough would loose approximately 13.9 Million in assessed valuation. This would equal about \$41,727 based on a 3 mill average.

This would also put the Native lands in a better position to develop and compete in the open market, if they wished. They could do all the preliminary work, such as roads, utilities, survey, and hold the property for the highest return, and still not pay taxes. *- this would only apply to native lands - would potentially be higher in other cases -*  
We currently have 13.9 million in assessed value that the different regions have been paying taxes on. We have had them on the tax rolls for 4 or 5 years and they paid their taxes without paying under protest.

*could be done*

Cook Inlet	7,281,205
Ninilchik	924,950
Seldovia Native	2,882,300
Slamatoff	599,500
English Bay	2,708,800
Port Graham	1,068,000
<hr/>	
Total	15,454,755

*Also when 20 years are up & Native Lands  
we would have <sup>be</sup> ~~been~~ on the tax rolls - then they  
would be exempt at a tremendous loss to  
the Borough - until sold*